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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,071	03/11/2004	Dominic John Goodwill	PAT 3178-2	4359
26123	7590	10/05/2006	EXAMINER	
BORDEN LADNER GERVAIS LLP WORLD EXCHANGE PLAZA 100 QUEEN STREET SUITE 1100 OTTAWA, ON K1P 1J9 CANADA			NGUYEN, SANG H	
			ART UNIT	PAPER NUMBER
			2877	

DATE MAILED: 10/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/797,071

Applicant(s)

GOODWILL ET AL.

Examiner

Sang Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 13, 19-27, 34 and 40-57 is/are rejected.
- 7) ☒ Claim(s) 8-12, 14-18, 29-33, and 35-39 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

Applicant's response to remarks filed on 07/20/06 has been entered. It is noted that the application contains claims 1-57 on 07/20/06.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-6, 19-23, 28, 48, 50, 53, and 55-57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gottlieb et al (U.S. Patent No. 6,694,070) in view of Chen (U.S. Patent No. 6,660,990).

Regarding claims 1, 4-5, 19, 22-23, 48, and 55-57; Gottlieb et al discloses a system and method, said system and method comprising:

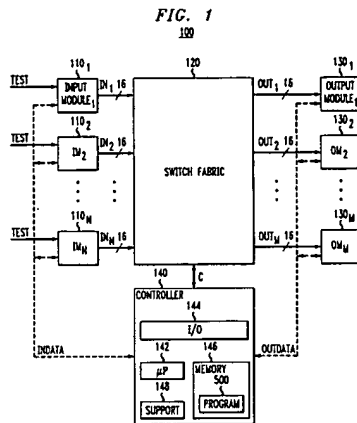
a) at least one first module ($110_1 - 110_N$ of figure 1) capable of obtaining a respective first measurement of a characteristic emitted signal (i.e., test signal TEST [see col.4 lines 31-33]) to that is supplied to an optical component is considered to be an optical switch (120 of figure 1);

b) at least one second module (i.e., output module [$130_1 - 130_M$ of figure 1]) of said at least one second module ($130_1 - 130_M$ of figure 1) is associated to one of said least one first module ($110_1 - 110_N$ of figure 1), said at least one second module ($130_1 - 130_M$ of figure 1) capable of obtaining a respective second measurement the characteristic of the signal (i.e., test out signal 16 [see OUT_1-OUT_N of figure 1])) for which a respective first measurement of the characteristic (IN_1-IN_N of figure 1) was obtained by its associated first module ($110_1 - 110_N$ of figure 1), the respective second measurement (OUT_1-OUT_N of figure 1) being obtained upon reception of the emitted signal from the optical component (120 of figure 1); and

a processing module (i.e., a controller [140 of figure 1]) in communication with said at least one first module ($110_1 - 110_N$ of figure 1) and said at least one second

module ($130_1 - 130_M$ of figure 1) for determining a feature the optical component ()120 of figure 1) based on the first and second measurements (i.e., test signal TEST [see col.4 lines 31-33] and test out signal 16 [see OUT_1-OUT_N of figure 1] and col.1 lines 60 to col. Line 11). See figures 1-5.

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Brewer et al discloses all of features of claimed invention except for first and second measurement the characteristic of the spontaneously emitted signal. However, Boertjes et al teaches that it is known in the art to provide optical amplification and receiving system comprising first and second measurement the characteristic of the spontaneously emitted signal (col.1 lines 48-65 and col.2 lines 1-12, and col.10 lines 9-25). See figures 1-5.

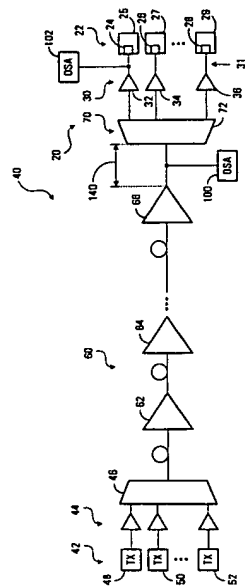


FIG. 2

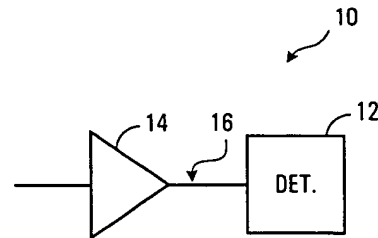


FIG. 1

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify system of Gottlieb et al with first and second measurement the characteristic of the spontaneously emitted signal as taught by Boertjes et al for the purpose of controlling preventing the wide-band ASE-ASE beating from producing corresponding spontaneous-spontaneous beat noise in the electrical equivalent signal produced by each detector.

Regarding claims 2 and 20; Gottlieb et al discloses said at least one first module (110 of figure 1) includes a plurality of first modules ($110_1 - 110_N$ of figure 1 of figure 1) and said at least one second module (130 of figure 1) includes a plurality of second modules ($130_1 - 130_M$ of figure 1).

Regarding claims 3 and 21; Gottlieb et al discloses each second (130₂ of figure 1) from said plurality of second modules (130 of figure 1) is associated to a first module (110 of figure 1) from said plurality of first modules (110₁ – 110_N of figure 1 of figure 1) by virtue of an associated connection path (figure 1) through the optical component (120 of figure 1), said processing module (140 of figure 1) being capable of obtaining knowledge of all of the connection paths (i.e., INdata and OUTdata figure 1).

Regarding claims 6 and 28; Gottlieb et al discloses the feature of the optical component (120 of figure 1) for determined by said processing module (140 of figure 1) is the validity of a selected one the connection paths (figure 1).

Regarding claims 50 and 53; Gottlieb et al discloses discloses all of features of claimed invention except for a device for generating and receiving the spontaneously emitted signal. However, Boertjes et al teaches that it is known in the art to provide a device for generating and receiving the spontaneously emitted signal (20, 40 of figure 1). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify system of Gottlieb et al with a device for generating and receiving the spontaneously emitted signal as taught by Boertjes et al for the purpose of controlling preventing the wide-band ASE-ASE beating from producing corresponding spontaneous-spontaneous beat noise in the electrical equivalent signal produced by each detector.

Claims 7, 13, 24-27, 34, 40-47, 49, 51-52, and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gottlieb et al and Boertjes et al as

applied to claims 1-3, 19-21, and 48 above, and further in view of Alvarez et al (U.S. Patent No. 6,731,832).

Regarding claim 7; Gottlieb et al and Boertjes et al discloses the feature of the optical component determined by said processing module is the optical loss of a selected one of the connection paths. However, Alvarez et al teaches that it is known in the art to provide the feature of the optical component (210 of figure 2) for determined by said processing module ((260 of figure 2) is the optical loss of a selected one of the connection paths (col.5 lines 50-60). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify system of Gottlieb et al with the feature of the optical component determined by said processing module is the optical loss of a selected one of the connection paths as taught by Alvarez et al for the purpose of improving technology in the communication of data at ever higher rates with advantages such as flexibility, efficient band-width utilization, fixed bandwidth connections.

Regarding claims 13 and 34; Gottlieb et al and Boertjes et al discloses all of features of claimed invention except for the characteristic of the spontaneously emitted signal measured by the first and second modules associated to a selected one of the connection paths is optical power, and wherein the feature of the optical component determined by said processing module is the optical loss of a selected one of the connection paths. However, Alvarez et al teaches that it is known in the art to provide the characteristic of the spontaneously emitted signal measured by the first and second modules (230, 235 of figure 2) associated to a selected one of the connection paths is

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optical power (figure 3), and wherein the feature of the optical component (210 of figure 2) for determined by said processing module ((260 of figure 2) is the optical loss of a selected one of the connection paths (col.5 lines 50-60). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify system of Gottlieb et al with the characteristic of the spontaneously emitted signal measured by the first and second modules associated to a selected one of the connection paths is optical power, and wherein the feature of the optical component determined by said processing module is the optical loss of a selected one of the connection paths as taught by Alvarez et al for the purpose of improving technology in the communication of data at ever higher rates with advantages such as flexibility, efficient band-width utilization, fixed bandwidth connections.

Regarding claims 24 and 49; Gottlieb et al and Boertjes et al discloses all of features of claimed invention except for further comprising a plurality of line cards, wherein said plurality of first modules and said plurality of second modules are distributed amongst said plurality of line cards. However, Alvarez et al teaches that it is known in the art to provide further comprising a plurality of line cards 270 of figure 2 and 420 of figure 4), wherein said plurality of first modules (230, 240 of figure 2) and said plurality of second modules (235, 245 of figure 2) are distributed amongst said plurality of line cards (270 of figure 2). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify system of Gottlieb et al with further comprising a plurality of line cards, wherein said plurality of first modules and said plurality of second modules are distributed amongst said plurality of line cards as taught

by Alvarez et al for the purpose of improving technology in the communication of data at ever higher rates with advantages such as flexibility, efficient band-width utilization, fixed bandwidth connections.

Regarding claims 25-27; Gottlieb et al and Boertjes et al discloses all of features of claimed invention except for at least one first module is embedded on one of said plurality of line cards and least one second module embedded on one of said plurality of line cards. However, Alvarez et al teaches that it is known in the art to provide further comprising at least one first module (240 of figure 11) is embedded on one of said plurality of line cards (1170 of figure 11) and least one second module (245 of figure 12) embedded on one of said plurality of line cards (1270 of figure 12). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify system of Gottlieb et al with at least one first module is embedded on one of said plurality of line cards and least one second module embedded on one of said plurality of line cards as taught by Alvarez et al for the purpose of improving technology in the communication of data at ever higher rates with advantages such as flexibility, efficient band-width utilization, fixed bandwidth connections.

Regarding claims 40 and 44; Gottlieb et al and Boertjes et al discloses all of features of claimed invention except for at least one first module or second module includes an optical tap for accessing the respective spontaneously emitted signal. However, Alvarez et al teaches that it is known in the art to provide at least one first module (i.e., ingress module [240 of figure 11]) or second module (i.e. egress module [245 of figure 12]) includes an optical tap (figures 11-12) for accessing the respective

spontaneously emitted signal (col.17 lines 35-55). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify system of Gottlieb et al with a processing module in communication with at least one first module includes an optical tap for accessing the respective spontaneously emitted signal as taught by Alvarez et al for the purpose of improving technology in the communication of data at ever higher rates with advantages such as flexibility, efficient band-width utilization, fixed bandwidth connections.

Regarding claims 41-42 and 45-46; Gottlieb et al and Boertjes et al discloses all of features of claimed invention except for said at least one optical tap diverts a portion of the respective spontaneously emitted signal to an optical power monitor and said optical power monitor obtains the first measurement (or second measurement) of the characteristic of the respective spontaneously emitted signal associated to the at least one first module (or second module). However, Alvarez et al teaches that it is known in the art to provide said at least one optical tap (figure 11 and col.17 lines 35-55) diverts a portion of the respective spontaneously emitted signal to an optical power monitor (260 of figure 2) and said optical power monitor (260 of figure 2) obtains the first measurement of the characteristic of the respective spontaneously emitted signal associated to the at least one first module (240, 230 of figure 2). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify system of Gottlieb et al with said at least one optical tap diverts a. portion of the respective spontaneously emitted signal to an optical power monitor and said optical power monitor obtains the first measurement (second measurement) of the

characteristic of the respective spontaneously emitted signal associated to the at least one first module (or second module) as taught by Alvarez et al for the purpose of improving technology in the communication of data at ever higher rates with advantages such as flexibility, efficient band-width utilization, fixed bandwidth connections.

Regarding claims 43 and 47; Gottlieb et al, Boertjes et al , and Alvarez et al discloses all of features of claimed invention except for said optical power monitor includes a dynamic range of greater than 30 dB. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine system of Gottlieb et al with said optical power monitor includes a dynamic range of greater than 30 dB, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or working ranges involves only routine skill in the art. In re Aller, 105 USPQ 233.

Regarding claims 51-52; Gottlieb et al and Boertjes et al discloses all of features of claimed invention except for said device that generates said spontaneously emitted signal is an optical amplifier and said device that generates said spontaneously emitted signal is embedded in a line card. However, Alvarez et al teaches that it is known in the art to provide said device (302 of figure 3) that generates said spontaneously emitted signal is an optical amplifier ((342 of figure 3) and said device (302 of figure 3) that generates said spontaneously emitted signal is embedded in a line card (270 of figure 2). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify system of Gottlieb et al with said device that generates said spontaneously emitted signal is an optical amplifier and said device

that generates said spontaneously emitted signal is embedded in a line card as taught by Alvarez et al for the purpose of improving technology in the communication of data at ever higher rates with advantages such as flexibility, efficient band-width utilization, fixed bandwidth connections.

Regarding claim 54; Gottlieb et al and Boertjes et al discloses all of features of claimed invention except for said optical amplifier also functions to amplify a plurality of optical traffic signals that pass through said optical component. However, Alvarez et al teaches that it is known in the art to provide said optical amplifier (324 of figure 2) also functions to amplify a plurality of optical traffic signals (figure 3) that pass through said optical component (210 of figure 2). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify system of Gottlieb et al with said optical amplifier also functions to amplify a plurality of optical traffic signals that pass through said optical component as taught by Alvarez et al for the purpose of improving technology in the communication of data at ever higher rates with advantages such as flexibility, efficient band-width utilization, fixed bandwidth connections.

Allowable Subject Matter

Claims 8-12, 14-18, 29-33, and 35-39 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art of record, taken alone or in combination, fails to discloses or render obvious a system and a method comprising all the specific elements with the specific

combination including of said processing module is operative to: a) evaluate a degree of similarity between the particular first and second measurements obtained by the first and second modules associated to a selected one of the connection paths; b) determine the feature of the optical component on the basis of the degree of similarity evaluated in a) set forth in claims 8, 14, 29, and 35.

Response to Arguments

Applicant's arguments, see Pages 2-7, filed 07/20/06, with respect to the rejection(s) of claim(s) 1-7, 13, 19-28, 34, and 40-57 under 103 (a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Gottlieb et al and Boertjes et al.

Conclusion


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sang Nguyen whose telephone number is (571) 272-2425. The examiner can normally be reached on 9:30 am to 7:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory J. Toatley, Jr. can be reached on (571) 272-2800 ext. 77. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

September 30, 2006


Sang Nguyen
Patent Examiner
Art Unit 2877